ORDINANCE NO. 2013-87

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, OF THE CODE OF ORDINANCES AND IN PARTICULAR, ADDING A NEW DIVISION, DIVISION 34 ENTITLED "ALWOD ARTIST LIVE/WORK OVERLAY DISTRICT" TO PROVIDE REGULATIONS FOR THE ARTIST LIVE/WORK OVERLAY DISTRICT, INCLUDING, BUT NOT LIMITED TO, DEFINITIONS, PURPOSE, GEOGRAPHIC AREA, DEVELOPMENT STANDARDS, OPERATING REQUIREMENTS AND ARTIST STUDIO REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of November 13, 2013 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific purpose and intent of this ordinance is to create an artist live/work district overlay district to revitalize an underutilized, older industrial district by providing artists an opportunity to live and work side-by-side in common industrial space.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article V. Zoning District Regulations, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding a new division, Division 34 entitled "ALWOD Artist Live/Work Overlay District", to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. DISTRICT ZONING REGULATIONS

* * *

DIVISION 34. ALWOD ARTIST LIVE/WORK OVERLAY DISTRICT

* * *

Sec. 98-1630.16. Purpose.

The Artist Live/Work Overlay District is intended to provide a joint work and living space within existing industrial buildings for individuals and family units engaged in the art trade. The purpose of these regulations is not only to perpetuate the industrial character of the district but introduce, at the same time, the art trade and artist studio development through regulations promoting artistic activity. This district is intended to enhance the cultural and economic life of the city and to that end, the residential component of the live/work unit shall not be the primary or dominant use of the industrial building or site.

Sec. 98-1630.17. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Art trade means the creation, manufacture or assemblage of visual art, including two-dimensional or three-dimensional works of fine art or craft, or other fine art objects created, manufactured or assembled for the purpose of sale, display, commission, consignment or trade by artists or artisans; or classes held for art or crafts instruction.

Artist studio means the establishment in which fine art or crafts are made or manufactured by visual artists or craftspeople. An artist studio is characterized by artists engaged in an occupation, vocation or trade requiring special dexterity and artistic skill in the production of a unique object of art or craft. The studio must be

open to the public either by appointment, event or regular hours. Examples of individuals who may establish an artist studio are woodworkers, potter/ceramists, stained-glass makers, glass blowers, textile artists and weavers, jewelry makers, painters, fine arts printmakers, metal workers, sculptors, photographers and film makers. Excluded from this definition are vocational schools and degree-granting art schools and training facilities.

Artist live/work unit means a structure or space that combines an art trade activity with a residential living space for the owner of the art trade activity, where the resident artist or craftsperson is responsible for the art trade performed and where the art trade conducted on the premises takes space subject to a valid business tax receipt associated with the premises.

Sec. 98-1630.18. Geographic area.

The ALWOD district shall comprise of an area having East 9 Street as its southern boundary, East 17 Street as its northern boundary, East 10 Avenue as its western boundary and the railroad tracks as its eastern boundary.

Sec. 98-1630.19. Development standards.

(a) *Floor area requirements.* The residential component of a live/work unit shall not exceed 1,500 square feet in total area.

(b) *Integration of living and working space.* A live/work unit shall function as primary work space with an ancillary residential accommodation in compliance with minimum housing standards and applicable building and life-safety regulations. Living space cannot be occupied or rented separately from the work space. The living space must have access to the work space. Such live/work space shall not conflict with or inhibit surrounding industrial uses that are allowed in the underlying zoning district.

Sec. 98-1630.20. Operating requirements.

(a) *Occupancy.* Any art trade or artist studio conducted from the live/work unit shall be operated by the occupant of the residential unit and not by a third party.

(b) *Rental restrictions.* The live/work unit, or portion thereof, shall not be rented as a residential space to any person not also renting a work space on the premises.

(c) *Conversion to residential use prohibited.* A live/work unit shall not be converted to an entirely residential use.

Sec. 98-1630.21. Artist studio regulations.

(a) Compliance with minimum parking requirements of the underlying zoning district.

(b) Art instruction is allowed only as a secondary or ancillary use. The number of students for art instruction for each class shall be limited to the number of available parking spaces.

(c) Exhibits that are aimed to attract a large number of visitors are encouraged as a district-wide special event, subject to a special event permit issued by the city clerk.

(d) If the facility abuts or is contiguous to a residential district, the artist shall reduce noise or avoid odors or activity that is offensive to the residential neighbors. In such cases, outdoor work is prohibited.

(e) All outdoor signs or murals require building permits administrative zoning approval subject to review and report by a design review committee.

(f) Outdoor work, where allowed, is limited to the production of special or oversized objects and shall be produced or manufactured behind an obscured fence or wall.

(g) Open areas shall not be used for storage of any materials or work.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict

Section 3: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: **Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: **Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: **Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is

withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 10 day of December, 2013.

Isis Garcia-Martinez
Council President

Attest:

Marbelys Fatjo, Acting City Clerk

Approved on this 16 day of December, 2013.

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 6-0-1 vote with Council Members, Garcia-Martinez, Caragol, Casals-Munoz, Cue-Fuente, Hernandez and Lozano voting "Yes", Council Vice President Gonzalez absent.